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LOS ANGELES POLICE PROTECTIVE LEAGUE

**FILED**  
Superior Court of California  
County of Los Angeles

DEC 31 2018

Sherri R. Carter, Executive Officer/Clerk  
By M. Soto, Deputy  
Moses Soto

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LOS ANGELES**

LOS ANGELES POLICE PROTECTIVE  
LEAGUE,

Petitioner,

v.

CITY OF LOS ANGELES, a municipal  
corporation; MICHEL R. MOORE, Chief of  
Police for the City of Los Angeles, and DOES  
1 through 20, inclusive,

Respondents

CASE NO. **18STCP03495**

**VERIFIED PETITION FOR WRIT OF  
MANDATE [CCP Section 1085];  
ALTERNATIVE WRIT OF MANDATE  
[CCP Section 1087]; AND REQUEST FOR  
STAY ORDER**

**[UNLIMITED CIVIL ACTION]**

I.

**FIRST CAUSE OF ACTION FOR PETITION FOR WRIT OF MANDATE,**  
**ALTERNATIVE WRIT AND STAY ORDER**

1. For a First Cause of Action by Petitioner, Los Angeles Police Protective League against Respondents City of Los Angeles, Michael R. Moore, Chief of Police for the City of Los Angeles, and Does 1 through 20, inclusive, for a Petition for Peremptory Writ of Mandate, Alternative Writ of Mandate and Stay Order, Petitioner alleges as follows:

2. Petitioner Los Angeles Police Protective League (hereinafter referred to as the "League") at all times herein mentioned was, an employee organization as defined in Government Code Section 3500 et seq. recognized to represent all police officers, police detectives, sergeants and lieutenants employed by the City of Los Angeles with regard to all matters concerning wages, hours and working conditions. The League's represented employees are peace officers as defined within the California Penal Code Section 830.1.

3. Respondent City of Los Angeles (hereinafter referred as "City") at all times mentioned herein was a municipal corporation operating under the laws of the State of California. At all times herein, Respondent City was a local employing agency within the meaning of Penal Code Section 832.5 et seq. maintaining peace officer personnel information, as well a local agency within the meaning of the California Public Records Act, Government Code 6252.

4. Respondent, Michel R. Moore at all times mentioned herein was the Chief of Police for the City of Los Angeles charged with the general supervision, administration and management of Los Angeles Police Department.

1        5.        At all times mentioned herein, Respondents Does 1 through 20, inclusive, were the  
2 agents, servants and employees of Respondent City, and in doing the things hereinafter alleged  
3 were acting within the scope of their authority of such agents, servants and employees with  
4 their permission and consent of the City. Petitioner will amend this Complaint to allege the  
5 true names and capacities of Does 1 through 20, inclusive when ascertained.  
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7        6.        California Penal Code section 832.7, subdivision (a) expressly provides that “peace  
8 officer or custodial officer personnel records and records maintained by any state or local  
9 agency pursuant to Section 832.5, or information obtained from those records, are confidential  
10 and shall not be disclosed in any criminal or civil proceedings, except by discovery pursuant to  
11 Sections 1043 and 1046 of the Evidence Code.”  
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13        7.        California Penal Code section 832.8 provides that, as used in Section 832.7,  
14 “personnel records” includes “any file maintained under that individual’s name by his or her  
15 employing agency and containing records relating to any of the following: ... (d) Employee  
16 advancement, appraisal, or discipline; (e) Complaints, or investigations of complaints,  
17 concerning an event or transaction in which he or she participated, or which he or she  
18 perceived, and pertaining to the manner in which he or she performed his or her duties.”  
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20        8.        On September 30, 2018, Governor Brown approved Senate Bill 1421 which  
21 amended Penal Code Sections 832.7 and 832.8 relating to peace officer personnel records.  
22 Senate Bill 1421 provides that peace officer or custodial officer personnel records and  
23 information concerning the following categories of incidents shall *not* be confidential, and shall  
24 be made available for public inspection pursuant to the CPRA: a) an incident involving the  
25 discharge of a firearm at a person by a peace officer or custodial officer; b) an incident in which  
26 the use of force by a peace officer or custodial officer against a person resulted in death, or in  
27 great bodily injury; c) an incident in which a sustained finding was made by any law  
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1 enforcement agency or oversight agency that a peace officer or custodial officer engaged in  
2 sexual assault involving a member of the public; d) an incident in which a sustained finding  
3 was made by any law enforcement agency or oversight agency of dishonesty by a peace officer  
4 or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or  
5 directly relating to the reporting of, or investigation of misconduct by, another peace officer or  
6 custodial officer, including, but not limited to, any sustained finding of perjury, false  
7 statements, filing false reports, destruction, falsifying, or concealing of evidence. (Attached  
8 hereto as Exhibit A is a true and correct copy of Chapter 988 of the 2017-2018 Regular  
9 Session, Senate Bill 1421 and made a part hereof as though fully set forth in this petition).  
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12 9. Senate Bill 1421 was enacted during the regular legislative session, and not  
13 designated as “urgent.” Accordingly, its amendments are effective January 1, 2019. (Gov. Code  
14 § 9600.)  
15

16 10. Senate Bill 1421 contains no legislative direction for a retroactive application of the  
17 amendments to Penal Code sections 832.7 and 832.8, including no such direction as to the  
18 amendment’s application to peace officer personnel records reflecting conduct or arising out of  
19 incidents occurring prior to January 1, 2019 – information deemed confidential as a matter of  
20 law.  
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22 11. After SB 1421 was approved by the Governor, Respondent’s Los Angeles Police  
23 Department (“LAPD”) Chief of Police Michel Moore wrote a letter to Senate Nancy Skinner,  
24 principal author of Senate Bill 1421, expressing “concern that [SB 1421] may be interpreted as  
25 retroactive.” The LAPD’s concern was based on its conclusion that compliance with Senate  
26 Bill 1421, if applied in a retroactive manner, would be “exceptionally burdensome and would  
27 require significant reallocation of front-line investigative personnel,” such that “the workload  
28



1 on the men and women of the LAPD could prove to be well beyond any reasonable expectation  
2 given the sheer volume” of complaints and incidents maintained by that agency. ( Attached  
3 hereto as Exhibit B is a true and correct copy of Chief Moore’s December 3, 2018 letter and  
4 made a part hereof as though fully set forth in this Petition.  
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6 11. Pursuant to a letter dated December 26, 2018 from Arif Alikhan, Director of  
7 Constitutional Policing and Policy for the Los Angeles Police Department to Craig Lally-  
8 LAPPL President, it was confirmed that the Los Angeles Police Department intends to  
9 retroactively apply SB 1421 beginning January 1, 2019 absent a stay or other ruling from the  
10 California Supreme Court or another court of competent jurisdiction. Attached hereto as  
11 Exhibit C is a true and correct copy of the December 26, 2018 letter and made a part hereof as  
12 though fully set forth in this Petition  
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15 12. Senate Bill 1421 amends Penal Code Section 832.7, effective January 1, 2019, to  
16 eliminate the longstanding statutory confidentiality of specified peace officer or custodial  
17 officer personnel records, and the information contained therein, maintained by public agencies  
18 in order to make such records and information available for public inspection pursuant to the  
19 CPRA.  
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21 13. Senate Bill 1421 does not contain any express provision or language requiring  
22 retroactivity or any clear indication that the Legislature intended the statute to operate  
23 retroactively so as to be applied and enforced with respect to peace officer personnel records  
24 and information which arose out of incidents involving peace officer conduct occurring prior to  
25 January 1, 2019.  
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1        14.     The amendments constitute a substantial and adverse change to the existing privacy  
2 rights of the League's represented peace officers. Pursuant to California Constitution, Article I,  
3 Section 3(b)(3), any broad construction of statutes pertaining to the right of access to  
4 information of public agencies (such as the CPRA) does *not* supersede the construction of  
5 statutes that protect the constitutional right of privacy, including any statutory procedures  
6 governing discovery or disclosure of information concerning the official performance or  
7 professional qualifications of a peace officer.

9        15.     Petitioner's represented peace officers will suffer irreparable injury and damage by  
10 the retroactive application of Senate Bill 1421, in that such an application would unlawfully  
11 violate the constitutional and statutory protection of peace officers to the confidentiality of their  
12 peace officer personnel records regarding incidents or reflecting conduct occurring prior to  
13 January 1, 2019.

15        16.     Petitioner has a beneficial interest in Respondents' compliance with its ministerial  
16 duty not to violate Petitioner's members' confidentiality rights by applying Senate Bill 1421  
17 retroactively.

18        Wherefore, Petitioner Los Angeles Police Protective League requests the following relief  
19 against Respondents, and each of them:

- 21            1.     That this Court forthwith issue an alternative writ of mandate directing  
22 Respondents City of Los Angeles and Police Chief Michel R. Moore and their agents,  
23 employees and representatives to refrain from retroactively enforcing or applying  
24 Senate Bill 1421's amendments to California Penal Code Sections 832.7 and 832.8 in  
25 any manner which would result in the disclosure or production of peace officer  
26 personnel records and information regarding incidents or reflecting conduct occurring  
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1 prior to January 1, 2019, or in the alternative, to show cause before this Court at a  
2 specified time and place why Respondents have not done so;

3 2. That upon Respondents' return to the alternative writ, a hearing be held  
4 before this Court at the earliest practicable time so that the issue involved in this  
5 Petition may be adjudicated promptly;  
6

7 3. That pending such return and hearing on the Alternative Writ of Mandate,  
8 and until this Court otherwise directs, the Court issue an immediate Stay Order or grant  
9 an injunction prohibiting any retroactive enforcement or application of Senate Bill 1421  
10 by Respondents City of Los Angeles and Police Chief Michel R. Moore and their  
11 agents, employees and representatives in any manner which would result in the  
12 disclosure or production of peace officer personnel records and information regarding  
13 incidents or reflecting conduct described in Senate Bill 1421 occurring prior to January  
14 1, 2019;  
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16 4. That following the hearing upon this Petition, the Court issue a peremptory  
17 writ of mandate or other relief directing Respondents City of Los Angeles and Police  
18 Chief Michel R. Moore and their agents, employees and representatives refrain from  
19 retroactively enforcing or applying the amendments to California Penal Code Sections  
20 832.7 and 832.8 implemented by SB 1421 in any manner which would result in the  
21 disclosure or production of peace officer personnel records regarding incidents or  
22 reflecting conduct occurring prior to January 1, 2019;  
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24 5. That Petitioner be awarded attorneys' fees and costs of suit; and  
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1                   6.     For such other and further relief as the Court may deem just and proper.  
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4                                   **RAINS LUCIA STERN ST. PHALLE & SILVER, PC**

5     Dated: 12/16/18

6                                     
7                                   Richard A. Levine Esq.  
8                                   Attorneys for Petitioner  
9                                   LOS ANGELES POLICE PROTECTIVE LEAGUE  
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Senate Bill No. 1421

CHAPTER 988

An act to amend Sections 832.7 and 832.8 of the Penal Code, relating to peace officer records.

[Approved by Governor September 30, 2018. Filed with  
Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1421, Skinner. Peace officers: release of records.

The California Public Records Act requires a state or local agency, as defined, to make public records available for inspection, subject to certain exceptions. Existing law requires any peace officer or custodial officer personnel records, as defined, and any records maintained by any state or local agency relating to complaints against peace officers and custodial officers, or any information obtained from these records, to be confidential and prohibits the disclosure of those records in any criminal or civil proceeding, except by discovery. Existing law describes exceptions to this requirement for investigations or proceedings concerning the conduct of peace officers or custodial officers, and for an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill would require, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers and custodial officers to be made available for public inspection pursuant to the California Public Records Act. The bill would define the scope of disclosable records. The bill would require records disclosed pursuant to this provision to be redacted only to remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the physical safety of the peace officer, custodial officer, or others. Additionally the bill would authorize redaction where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. The bill would allow the delay of disclosure, as specified, for records relating to an open investigation or court proceeding, subject to certain limitations.

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The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Peace officers help to provide one of our state's most fundamental government services. To empower peace officers to fulfill their mission, the people of California vest them with extraordinary authority — the powers to detain, search, arrest, and use deadly force. Our society depends on peace officers' faithful exercise of that authority. Misuse of that authority can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, as well as significant public unrest.

(b) The public has a right to know all about serious police misconduct, as well as about officer-involved shootings and other serious uses of force. Concealing crucial public safety matters such as officer violations of civilians' rights, or inquiries into deadly use of force incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it harder for tens of thousands of hardworking peace officers to do their jobs, and endangers public safety.

SEC. 2. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5

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(commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, “sexual assault” means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, “member of the public” means any person not employed by the officer’s employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

(2) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer’s action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

(3) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

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(4) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph (1), unless it relates to a sustained finding against that officer. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a sustained finding against another officer that is subject to release pursuant to subparagraph (B) or (C) of paragraph (1).

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(7) An agency may withhold a record of an incident described in subparagraph (A) of paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure

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of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about use of serious force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in subparagraph (A) of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer or custodial officer's use of force, whichever is later.

(8) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

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(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 3. Section 832.8 of the Penal Code is amended to read:

832.8. As used in Section 832.7, the following words or phrases have the following meanings:

(a) "Personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

(b)  
(c)  
(d)  
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(1) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.

(2) Medical history.

(3) Election of employee benefits.

(4) Employee advancement, appraisal, or discipline.

(5) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

(6) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

(b) "Sustained" means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Sections 3304 and 3304.5 of the Government Code, that the actions of the peace officer or custodial officer were found to violate law or department policy.

(c) "Unfounded" means that an investigation clearly establishes that the allegation is not true.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which amends Section 832.7 of the Penal Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The public has a strong, compelling interest in law enforcement transparency because it is essential to having a just and democratic society.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

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# LOS ANGELES POLICE DEPARTMENT



**MICHEL R. MOORE**  
Chief of Police

**ERIC GARCETTI**  
Mayor

P. O. Box 30158  
Los Angeles, CA 90030  
Telephone: (213) 486-0150  
TDD: (877) 275-5273  
Ref #: 1.14

December 3, 2018

The Honorable Nancy Skinner  
California State Senate  
State Capitol, Room 2059  
Sacramento, CA 95814

Dear Senator Skinner:

The Los Angeles Police Department (LAPD) is writing this letter to express our concern that Senate Bill 1421 (SB 1421) may be interpreted as retroactive. Since the passage of SB 1421, the LAPD has been preparing for the massive influx in historical records requests it anticipates starting January 1, 2019. We recognize that the passage of SB 1421 will require our Department to significantly grow its workforce and modernize its technology in order to comply with releasing records that were previously exempt. As such, the Department has convened an SB 1421 Taskforce, meeting weekly with all stakeholders to address future compliance with SB 1421 in an effective and efficient manner. Through this introspective process, we have identified some key ways to streamline current and future investigations that will allow us to more readily comply with the requirements of SB 1421. The mandates of SB 1421, even on a prospective basis, will require the hiring of additional personnel; acquisition of expensive hardware and software related to uploading, redacting, digitizing, and reformatting files and evidence; and, reallocation of personnel from key field, investigative, and administrative positions. If SB 1421 is implemented retroactively, the workload on the men and women of the LAPD could prove to be well beyond any reasonable expectation given the sheer volume of personnel complaints and uses of force (UOF) maintained in antiquated or archaic formats.

The LAPD has two distinct entities that investigate incidents directly related to SB 1421: Force Investigation Group (FIG), which investigates all serious UOF incidents; and, Internal Affairs Group (IAG), which investigates allegations of misconduct. Currently, the LAPD retains complaint records and officer-involved shooting investigations indefinitely.

## Use of Force Investigations

In just the last five years, FIG investigated a total of 419 UOF incidents. While not all these incidents would require disclosure under SB 1421, each investigation would have to be reviewed to determine disclosure requirements. A typical investigation requiring disclosure under SB 1421 includes thousands of pages of written investigations and transcripts, hours of audio and video evidence from Body Worn Video and Digital In-Car Video, plus 911 dispatcher audio, and hundreds of photographs. The SB 1421 Taskforce recently audited one representative UOF



investigation requiring disclosure under SB 1421. The items to be disclosed are listed below:

Total Pages of Investigation:	2,232
Total Hours of Video:	11:00:32
Total Hours of Audio:	18:16:04
Total Radio Frequency/911 Call Time:	3:16:30
Total Data Size:	32.14 GB
Total Photos:	813

It is estimated that this case would require 267 work hours to complete a full review for release under SB 1421. Even if the historical record requirement were limited to just the last five years, there is a potential of nearly 300,000 work hours necessary to complete the required tasks under SB 1421. Beyond those five years, the LAPD has approximately 1,013 boxes in storage dating back to 1983. Because these older cases are stored on cassette tapes, reel to reel tape, and floppy discs, reviewing, reproducing, and redacting these records will prove extremely burdensome. The LAPD currently has no technology to convert many of these investigations to a workable, disclosable format. From the older cases, paperwork and developed photographs will need conversion to a digital format, review by a trained investigator, and redaction as required by law. Currently, the older cases are not divided into the categories required under SB 1421; as such, Department personnel will be required to complete a hand review of every case. This historical research would all have to be completed in conjunction with new cases being investigated and reviewed for release under SB 1421.

### Complaint Investigations

Internal Affairs Group averages over 3,300 disciplinary investigations each year. The breakdown over the previous five years is as follows:

Year	Initiated	Sustained Complaints*	Sustained Allegations
2017	3,189	372	629
2016	3,393	404	664
2015	3,446	450	1,038
2014	3,773	363	725
2013	3,543	365	664
Total 5 Years	17,344	1,954	3,720

If SB 1421 is to be implemented retroactively, these cases will require review in much the same manner as the UOF cases. While most cases after 2003 have been scanned, many are not in a searchable format; therefore, each would still require conversion to a word search format, or an entire manual review. Each sustained complaint must be individually reviewed, redacted, and uploaded into a releasable format.

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\* There could be several sustained allegations in a single complaint.

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- Audio and video recordings;
- Penalty Recommendation forms;
- Relief from Duty forms;
- Suspension or Demotion forms;
- Board of Rights or other hearing documents; and,
- Legal/Court of Appeals documents.

The LAPD operates with a guiding principle of Reverence for the Law; as such, we will diligently comply with SB 1421. We maintain, however, that a retroactive implementation of SB 1421 will be exceptionally burdensome and would require significant reallocation of front-line investigative personnel.

Respectfully,

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MICHEL R. MOORE

MICHEL R MOORE  
Chief of Police

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# LOS ANGELES POLICE DEPARTMENT



**MICHEL R. MOORE**  
Chief of Police

**ERIC GARCETTI**  
Mayor

P. O. Box 30158

Telephone: (213) 486-8730

TDD: (877) 275-5273

Ref #:2.2.3

December 26, 2018

Craig Lally, President  
Los Angeles Police Protective League  
1308 West Eighth Street, 4<sup>th</sup> Floor  
Los Angeles, California 90017

## **Re: Senate Bill 1421 - Peace Officers: Release of Records**

Dear President Lally:

This letter is to advise you that the Los Angeles Police Department (Department) intends to apply the newly-enacted provisions of California Senate Bill 1421 (SB 1421) retroactively beginning January 1, 2019, absent a stay or other ruling from the California Supreme Court or another court of competent jurisdiction.

Senate Bill 1421 amended Penal Code section 832.7 by eliminating the statutory confidentiality of specified peace officer personnel records and information contained in those records. It created a new mandate that the following records maintained by public agencies shall be subject to disclosure and otherwise available for public inspection pursuant to the California Public Records Act ("CPRA"), Government Code section 6250 et seq.:

- Records related to the report, investigation, or findings of an incident involving the discharge of a firearm at a person by a peace officer or custodial officer, or an incident in which a use of force by a peace officer or custodial officer resulted in death or great bodily injury;
- Records relating to an incident in which a sustained finding was made that a peace officer or custodial officer engaged in sexual assault involving a member of the public; and
- Records relating to an incident in which a sustained finding was made of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of, misconduct by another peace officer or custodial officer.

The new provisions become effective on January 1, 2019.

As you know, the San Bernardino County Employees' Benefit Association has filed with the California Supreme Court a petition for a writ of mandamus requesting that the Court direct the County of San Bernardino to refrain from retroactively enforcing, or taking any steps to retroactively enforce, SB 1421. The Court has not yet ruled on the petition.

The Department has expressed its concern to Senator Skinner that retroactive implementation of SB 1421 will prove exceptionally burdensome. The Department maintains use of force investigative files and personnel records going back decades and the retroactive application of SB 1421 will require the LAPD to hire additional personnel, acquire costly computer equipment and software, transfer funding for training and technical assistance, and reassign front-line personnel to perform the administrative tasks necessary for compliance. Nevertheless, the Department is bound by the California Public Records Act and given any uncertainty or lack of clarity over the application of SB 1421, unless the California Supreme Court or a lower court rules that its provisions do not apply to incidents occurring or records created prior to January 1, 2019, the Department will provide the responsive records regardless of the date of creation or incident.

Should you have any questions, please contact us at (213) 486-8730.

Very truly yours,

**MICHEL R. MOORE**  
Chief of Police

ARIF ALIKHAN, Director  
Office of Constitutional Policing and Policy

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1 VERIFICATION

2  
3 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES,

4 I have read the foregoing Petition for Writ of Mandate, Alternative Writ of Mandate and  
5 Request for Stay, and know its contents.

6 // I am a party to this action. The matters stated in the foregoing document are true of my  
7 own knowledge except as to those matters which are stated on information and belief, and as to  
8 those matters I believe them to be true.

9 /\_XX\_/ I am the President for the Los Angeles Police Protective League, Petitioner to this action,  
10 and am authorized to make this Verification for and on its behalf, and I make this verification for  
11 that reason. I am informed and believe and on that ground allege that the matters stated in the  
12 foregoing document are true.

13 /\_/ I am one of the attorneys for \*\* a party to this action. Such party is absent from the  
14 county of aforesaid where such attorneys have their offices, and I make this verification for and  
15 on behalf of that party for that reason. I am informed and believe and on that ground allege that  
16 the matters stated in the foregoing document are true.

17 Executed on December 26, 2018 at Los Angeles, California.

18 I declare under penalty of perjury under the laws of the State of California that the  
19 foregoing is true and correct.  
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Craig Lally  
NAME

  
SIGNATURE